

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Jackie Powell, Chair
Preston Stone, Vice Chair

Kathryn Minter, Member
Mark Doth, Member
Dallas Draper, Member

Minutes Tuesday, October 21, 2014

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on October 21, 2014 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Powell called the Regular Meeting of the Board of County Commissioners to order at 8:35:20 AM.

2. Roll Call

Roll Call.

Present: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.

Absent/Excused: Commissioner Doth.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

3. Invocation

The invocation was presented by Commissioner Stone.

4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,

Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.

Absent: Commissioner Doth.

6. Approval of Minutes

- a. September 16, 2014 Regular Commission Meeting

Motion: Approve the minutes of the September 16, 2014 Regular Commission Meeting;

Action: Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.

Absent: Commissioner Doth.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/Expenditures
- b. Treasurer's Financial Report for the Month ending September 30, 2014

Motion: Approval of Consent items as presented, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Commissioner Doth joined the meeting at 8:36:09 AM.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper, Commissioner Doth.

SEE EXHIBIT A: Copies of Consent Items are attached hereto in reference thereto made a part hereof.

8. Smokey Bear District Ranger Update

David Warnack, Ranger reported the burning of slash piles on nearly 300 acres south of Grindstone Lake was nearing completion. Ranger Warnack stated Fire Personnel would continue to patrol the area until all fuels were completely out. Ranger Warnack stated Fire Personnel burned some large brush piles in the Ski Apache area yesterday and would also continue to monitor those piles.

Commissioner Powell commented on the recent demonstration of an "air curtain burner". Ranger Warnack expressed interest in the technology and anticipated County personnel and the Rural Forester would present additional information to the County.

Ranger Warnack discussed patrolling associated with the big game hunting seasons and informed the Smokey Bear District permitted twenty four different Outfitters and Guides who provide hunting and guiding services in the area along with other Outfitters and Guides permitted in other districts. Ranger Warnack stated the Ranger District worked closely with New Mexico Department of Game and Fish to monitor the area. Ranger Warnack commented on the proliferation of new roads established by hunters and reminded the US Forest Service has specific authorized routes for access and maps were available at the District Office in Ruidoso.

Ranger Warnack stated currently there were two areas available to cut green standing wood and three areas to cut dead standing wood with permits available at the District Office. Ranger Warnack also stated the District Office would also issue Christmas tree permits beginning November 3, 2014.

9. Lincoln County Detention Center Update

Warden Arthur Anderson provided the monthly statistics on bookings and releases at the Lincoln County Detention Center. Warden Anderson reported the Detention Center had an average total daily population of 132 with a current population of prisoners of 129 which included 13 BIA prisoners and no US Marshal prisoners. Warden Anderson stated the current population was composed of 27 female and 102 male prisoners.

10. Lincoln County Fair Board Update and Presentation

Shad Cox, Vice President of the Lincoln County Fair Association reminded in the early 1980's LCFA ownership of the fairgrounds was transferred to the County of Lincoln to ease liability burdens and to open new funding avenues for future growth and expansion.

Mr. Cox discussed various activities conducted at the facility including the Lincoln County Fair and the Smokey Bear Stampede. Mr. Cox stated volunteers staffed the events and provided for management and maintenance of the fairgrounds. Mr. Cox stated the Smokey Bear Stampede, with average daily event entries of 233, could claim to be the largest open rodeo in the United States.

Mr. Cox stated expenses associated with the various activities totaled \$87,720 in 2014. Mr. Cox commented on the County contribution of \$24,000 as providing a return ratio of \$3.66 for each \$1.00 spent with all additional expenses being offset by proceeds from events.

Mr. Cox stated the fairgrounds also served as a site for immediate housing for livestock during natural disasters as well as a base camp and housing for inter-agency crews during disaster response when needed in the County.

Mr. Cox presented data which suggested the financial impact of the Smokey Bear Stampede had peaked due to limitations of the fairground facility and in particular limited seating space. Mr. Cox stated during the July 4, 2014 Rodeo performance maximum seating capacity was exceeded with standing room only available. Mr. Cox provided charts illustrating the growth in attendance and requested funding for additional seating for 800. Mr. Cox also presented

requests for new washing and staging facilities for show animals; modernized livestock pens; and a foyer for the Fletcher Hall Building.

Commissioner Minter questioned if the Fair Association request was to add seating to the existing arena rather than to develop a new arena as suggested by the Fairgrounds Master Plan. Mr. Cox confirmed the request was for additional seating at the existing arena.

Commissioner Doth questioned the expenditure of funding allocated in previous years. Mr. Cox explained that funding was used to purchase movable pens and fencing to adjust for water flow. Commissioner Doth questioned the current parking situation. Mr. Cox stated the use of the property across the "draw" alleviated a large part of the parking problem. Mr. Cox stated the Fair Association continued to work with the Village of Capitan to deal with ongoing parking issues. Mr. Cox stated the Association had an agreement with a neighboring landowner providing an emergency route to exit if the low water crossing flooded.

Commissioner Doth questioned the Fair Associations' priority of funding requests. Mr. Cox stated additional seating was the main priority due to the concern associated with declining attendance if people were turned away due to crowding.

Kathleen Phillips-Hellman, resident of Capitan questioned the total revenue from the Smokey Bear Stampede and also if the fair building roof still leaked. Mr. Cox stated the gross income from the Smokey Bear Stampede was \$68,000 over four days. Mr. Cox stated while some patching of the roof was successful they had not identified the source of other leaks.

12. Discussion/Potential Direction Re: Highway Runoff through Angus Cemetery

Ms. Taylor stated in May of 2013, she and the Road Superintendent were contacted by members of the Angus Cemetery Association regarding runoff from Highway 48 causing flooding at the cemetery. Ms. Taylor stated the County identified and fixed some problems associated with County roads and rights of way in the area including the replacement and cleaning of culverts and ditches. Ms. Taylor stated after meeting with members of the NM Department of Transportation (DOT) and the Angus Cemetery Association, the DOT requested a study by their Drainage Design Bureau. Ms. Taylor informed the study, completed in August of 2013, concluded the drainage structures within the DOT right of way were performing per DOT standards but recommended the 24" culverts located outside the NM DOT right of way be replaced with 48" culverts.

Ms. Taylor stated the Angus Cemetery Association recently contacted the County with continued concerns regarding this matter. Ms. Taylor provided a copy of the Associations' recent letter to Senator Bill Burt, Representative Nora Espinoza, and Tom Church the DOT Cabinet Secretary. Ms. Taylor also provided copies of photos of damage to the cemetery as provided by George Harkey.

George Harkey, Chair of the Angus Cemetery explained the State DOT refused to acknowledge drainage and erosion problems were a consequence of the redesign of Highway 48. Mr. Harkey suggested it was the State's responsibility to deal with damage resulting from the increased flow of water to Angus Cemetery property and other private property in the area.

Alan Morel, County Attorney stated he would consult with Carl Palmer, Road Superintendent and contact the State Department of Transportation to identify solutions.

There was general consensus for the Manager, Attorney, and Road Superintendent to work with the State Highway Department to seek a solution to the problem.

14. 9:30 AM: Public Comment and Other Business from County Officials

Commissioner Draper reported as the County member of the Southeastern New Mexico Economic Development District (SNMEDD), two resolutions of support were passed at the most recent meeting. Commissioner Draper stated one resolution was in support of air flight transportation from Roswell to Phoenix and the second addressed support for Law Enforcement during the next legislative session. Commissioner Draper explained members were concerned about the economic burden of a proposed requirement for all law enforcement officers to wear cameras.

Commissioner Doth commented on his experience as a County Commissioner and the frequent "push back" received from the public regarding needless and excessive governmental regulations. Commissioner Doth discussed, as an example, the burdensome regulations related to emissions related to the use of an "air burn curtain". Commissioner Doth stated these

highly regulated emissions were inconsequential when compared with the byproducts of a forest fire.

Rhonda Burrows, County Clerk provided times and locations for Early Voting for the 2014 General Election and urged all citizens to exercise their right to vote.

Chair Powell acknowledged the service of local volunteer fire fighters on behalf of the County and requested a proclamation honoring the volunteers.

Sheriff Robert Sheppard stated his deputies were now wearing cameras and recording interactions with the public. Sheriff Sheppard expressed belief the cameras were beneficial to the department.

Beverly Calaway, Chief Deputy Treasurer reported the Treasurer's office mailed out 30,481 tax bills for a total billing of \$28,309,537.53. Ms. Calaway stated this year's tax bills were itemized to reflect the distribution of billed amounts to each taxing entity.

Glenn Stahl, Nogal resident commented on the new rate increase imposed by Greentree Solid Waste (GSWA). Mr. Stahl expressed concern about GSWA's rate increases being implemented without oversight or approval. Mr. Stahl stated current customers were being penalized by the withdrawal of Alto residents and the loss of homes in the Little Bear Fire. Mr. Stahl questioned who was responsible for oversight of GSWA actions.

Jim Kalvelage, Alto resident stated both GSWA and the Board of County Commissioners were committing a disservice to residents by not resolving the issue of rate increases. Mr. Kalvelage expressed belief the recent rate increases imposed by GSWA were illegal under Lincoln County Ordinance 2008-09. Mr. Kalvelage also expressed concern about the decline in services by GSWA. Mr. Kalvelage suggested the County considered private haulers as an option.

Al Santos, Administrator of Lincoln County Medical Center provided an update on LCMC's preparedness response to recent Ebola Virus concerns. Mr. Santos stated LCMC was working with the State of New Mexico Health Department and the Center for Disease Control to develop plans for response to various scenarios.

Gary Jackson, D.O., LCMC Medical Director commented on the nature of the Ebola virus based on information provided by the CDC. Dr. Jackson reminded of past preparations triggered by other potential pandemic viruses or diseases. Dr. Jackson recommended all individuals receive a flu shot and focus on good health habits such as hand washing.

Jim Stover, LCMC Director of Emergency Medical Services and Emergency Preparedness commented on the actions and training associated with preparedness for various scenarios including pandemic out breaks, bombings, and other emergencies. Mr. Stover stated over time approximately 100 staff members had received training for response to these various scenarios.

11. GSWA Update

Ms. Taylor reported GSWA held their monthly meeting on October 16, 2014. Ms. Taylor provided copies of the Agenda and Draft Minutes from the September 18, 2014 GSWA meeting. Ms. Taylor noted GSWA requested formal notification of the appointment of Chair Powell to the GSWA Board and provided copy of that notification letter from the County to GSWA dated October 15, 2014.

Ms. Taylor provided copy of the second quarterly bill sent to GSWA residential customers informing of a rate increase to \$75.57 as of July 1, 2014. Ms. Taylor stated the increase reflected a 19.6% increase over the previous rate of \$63.17. Ms. Taylor stated belief the rate was imposed without the legally required public notice and informed the Attorney General's Office concurred by their opinion that legal notice was not properly given. Ms. Taylor reminded none of the recent rate increases imposed by GSWA were approved by the Board of County Commissioners.

Chair Powell recessed the Regular Meeting at 10:13:55 AM and reconvened 10:23:28 AM.

- 26. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).**

Motion: To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

New or Updated Matters since last report *

1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014.
2. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-00341. Suit filed October 18, 2011. Stipulated Notice of Dismissal with Prejudice was filed with the court Sept. 15, 2014.
3. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic's Lien. Motion for Summary Judgment filed Jan. 29, 2014. Motion for Grant of Summary Judgment filed July 18, 2014. Hearing scheduled for Jan. 5, 2015.
- *4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was served May 14, 2014. Mr. Paul Melendres has been retained by the County and filed Answer, Motion to Disqualify Mr. Beauvais and Change of Venue. Motion to Join the New Mexico Finance Authority as an Indispensable Party filed July 22, 2014. GSWA filed its Motion for Summary Judgment on Sept. 26, 2014. County filed its Response to GSWA's Motion for Summary Judgment on Oct. 13, 2014. Scheduling Conference and Hearing on All Pending Motions is scheduled Nov. 20 both with Judge Ritter. Preliminary Injunction Hearing is scheduled Dec. 17, 2014 with Judge Ritter.
5. *Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014. Telephonic Mediation Conference scheduled for Sept. 19, 2014 and GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept. 25, 2014.
6. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor* D-1226-CV-2013-00005. Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant's first motion to dismiss or Summary Judgment filed August 29, 2013. Hearing was Jan. 6, 2014, and produced an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the Merits occurred May 12, 2014 in Carrizozo with Judge Parsons and produced an Order Granting Motion to Dismiss. Appeal was filed Aug. 4, 2014.
- *7. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff's Department and the County of Lincoln.* D-1226-CV-2013-00191 to Federal No: 2:13-CV-00822-RB-SMV. Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. Tort Claim Notice was filed on October 27, 2011. LCSO and LC Manager were served on August 5, 2013. Advised NMAC assigned the case to Brennan and Sullivan Law Firm Sept. 5, 2013. Case was moved to Federal Court August 30, 2013. Plaintiffs and Defendants Agreed Motion to Modify Scheduling Order filed Aug. 5, 2014. Motion for Qualified Immunity still pending as of Oct. 4, 2014. Ms. Latham filed a new action in federal court against Village of Capitan and Police Officer Kevin Kennedy filed July 25, 2014. The court Sua Sponte consolidated both cases via Order from Judge Brack filed Sept. 29, 2014.
- *8. *State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM* D-1226-CV 2014-00006 Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham & Basham/Dwyer. Motion to Dismiss filed July 17, 2014. Settlement Agreement was signed by Avalon Sept. 3, 2014 and by Lincoln County Sept. 8, 2014.
9. *Bank of America, N.A. v. Howard D. Schafer, et. al. (County of Lincoln through LCSWA)* D-1226-CV2014-00162 County was served Sept. 2, 2014. Complaint for Foreclosure filed Aug. 19, 2014 Lincoln County filed an Alarm Ordinance Lien and a LCSWA Lien. Mr. Morel entered his appearance on behalf of the County Sept. 23, 2014. Disclaimer of Interest has been prepared.
- *10. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 et. al. and H-272 et al (T) and H-50-1 into H-272 et. al. (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County and entered his appearance Sept. 22, 2014.

Tort Claims Notices Received or Threatened

2014

Ramos, Aaron – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges damages by not being granted detainee to detainee correspondence.

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

Ogden, John D – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at LCDC on March 11, 2014.

Rounds, Christopher – Tort Claim Notice received June 4, 2014 alleging being held in LCDC without being advised of his charges.

Herbert, Crystal – Tort Claim Notice received June 23, 2014 alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

Class Action – Tort Claim Notice received June 23, 2014 alleging false imprisonment, false arrest, deprivation of rights at LCDC that arise with Immigration and Customs Enforcement charges.

Atwell, Stacey – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

Allen, Elaine – Tort Claim Notice received July 28, 2014 claiming defamatory and false personal statements targeting her were published on Lincoln County's website.

McGarry, Sean – Tort Claim Notice received July 25, 2014 alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge from the Capitan Police Department.

Ramos, Aaron – Tort Claim Notice received August 7, 2014 alleging lack of Due Process for inmates at LCDC.

Lambert, David and Bonnie - Tort Claim Notice received Sept. 8, 2014 by attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

2013

Allen, Katherine Elizabeth- Notice of Tort Claim against Lincoln County Detention Center for alleged injuries sustained during transport.

Borrego, Albert - Tort Claim Notice received from attorney Gary Mitchell on June 14, 2013 alleging continued harassment to Albert G. Borrego by police while responding to a noise complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego allegedly sustained injuries while in custody due to an existing broken back injury. Claim has been denied by NMAC.

Espinoza, Robert Tort Claim Notice received from Robert Espinoza on June 4, 2013, alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior Center meal delivery van ran off road hitting chain link fence, poles and railroad ties.

Harrisburg Documents- Attempts to recover Lincoln County documents illegally taken from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

Montoya, Emilia L. - Tort Claim Notice received by attorney Freda Howard McSwane on April 23, 2013, alleging injuries sustained by Ms. Montoya when a physical altercation took place at the LCDC.

Ramos, Aaron - Tort Claim Notice received by attorney Robert J. Beauvais on April 18, 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos' safety and welfare and violation of his U.S. Constitutional rights.

Silva, Elmo Tort Claim Notice received from attorney Richard Marquez November 6, 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District Court to 38 years filed on July 3, 1990.

Action: Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Chair Powell recessed the Regular Meeting and convened the Closed Session at 10:23:36 AM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 11:38:30 AM.

Commissioner Doth attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

27. Consideration and Action on County Assuming Billing and Collection for Solid Waste Collective Services to County Residents

Motion: Terminate the 1992 Joint Powers Agreement for Billing for Solid Waste Collection with the Greentree Solid Waste Authority; approve assumption of billing by the County for services to County residents, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

Chair Powell gave public notice the County of Lincoln would begin billing for solid waste services provided to Lincoln County residents located outside of all municipalities effective January 1, 2015. Chair Powell stated the necessity to terminate billing services provided by GSWA due to the implementation by GSWA of two unlawful rate increases and having received notice of a third increase set for January 1, 2015. Chair Powell stated the current lawfully approved rate for residential solid waste services outside of the municipalities was \$53.85 per quarter plus Gross Receipts Tax of \$3.06 for a total of \$56.91 pursuant to Lincoln County Resolution 2008-42. A verbatim copy of the public notice is attached as Exhibit B.

SEE EXHIBIT B: Copies of the Public Notice is attached hereto in reference thereto made a part hereof.

15. County Housing Requirements/Requests: District Attorney; County Extension Service; Public Defender

Ms. Taylor discussed the current housing accommodations for the offices of the District Attorney. Ms. Taylor stated after the relocation of the County GIS Department to the sub office in Ruidoso, the District Attorney's office requested use of the vacated space in the Annex building. Ms. Taylor stated her department began a process to obtain cost estimates to remediate current problems with leaks in the ceiling.

Ms. Taylor discussed the various options for potential housing for the District Attorney including the Annex Building, the potential renovation of the former Title Company building on Central at an estimated cost of \$236,000, or the District Attorney's preferred option to lease office space in Ruidoso at an estimated cost of \$1500 to \$4500 per month.

Ms. Taylor stated she also received a request from the County Extension office to relocate to the County owned Cillessen house behind the fairgrounds in Capitan. Ms. Taylor suggested the site was not well situated for office space due to potential flooding of the low water crossing. Ms. Taylor suggested two alternative solutions with one being for the Extension Office to remain in the Annex building or to renovate and relocate to offices in the main fairgrounds building. Ms. Taylor and Extension Office personnel toured both the Cillessen house and the fairgrounds building.

Ms. Taylor informed the Chief Public Defender also presented a request to rent space from the County and requested the space now occupied by the Extension Service. Ms. Taylor anticipated the cost to remediate problems in the Annex building as less than costs to remodel the main fairgrounds building.

Pete Gnatowski, retired Extension Agent for Lincoln County opined the Extension Offices should remain in the Courthouse and to best serve the general public. Mr. Gnatowski opposed the potential move to the fairgrounds due to security concerns for equipment and information retained by the Extension Office. Mr. Gnatowski suggested as an alternate the Commission consider leasing space from the Natural Resource and Conservation Service (NRCS) office in Carrizozo.

Marsha Palmer, County Director Cooperative Extension Services provided a list of preferential actions related to the location of the Extension Service. Ms. Palmer stated a preference to move to the Cillessen House in Capitan and cited the benefits of that location.

Ms. Taylor clarified it was not her recommendation to move the Extension Office but she had reviewed the options based on the Extension Service's request to move to the Cillessen House.

Commissioner Stone opined the Extension Service should remain at the County seat.

Billy Bob Shafer, President of the Fair Board discussed the use of the Cillessen building by the Fair Board including various times when lodging was provided to volunteer members. Mr.

Shafer commented the main fair building was more secure due to location than the Cillessen house.

Commissioner Minter questioned the purpose of the bank building purchased on Central Avenue in Carrizozo and suggested both the Courthouse Annex building and bank building be remodeled to provide additional space for County offices.

Chair Powell expressed appreciation for the comments and information presented. Chair Powell expressed belief any decision would require more data and cost estimates.

Chair Powell recessed the Regular Meeting at 12:05:46 PM and reconvened at 1:02:01 PM.

20. Manager's Report

1. **Lincoln County Juvenile Justice Board.** The Manager noted the County had worked with the LCJJB for many years as a program to "provide cost-effective, "best practice", non-detention treatment for juvenile offenders. The Manager stated Darrell Gasaway acting as Program Coordinator served a key role in ensuring the success of the program and informed Mr. Gasaway was retiring effective the end of October, 2014. The Manager thanked Mr. Gasaway on behalf of the County and acknowledge his contribution and service to the Lincoln County Juvenile Justice Board.

Mr. Gasaway commented on the support and funding provided by the County for the Juvenile Justice Board throughout his more than ten years and encouraged the County to continue to support the LCJJB.

Chair Powell recessed the Regular Meeting and convened the Public Hearing at 1:04:59 PM.

21. **1:00 P.M.: Public Hearing to consider the Issuance of a Restaurant Liquor License: Liquor License Application No. 000/921155 from THC Café, Inc. d/b/a Treehouse Café at 118 Lake Shore Drive, Alto, New Mexico 88312**

Attorney Morel provided information related to the application and stated there appeared to be no conflict with requirements for distance from schools, churches, or military installations.

Commissioner Doth questioned the applicants about the purpose of the application since a Public Hearing was held last year to approve a license at this location. Applicants Carol and James Brophy explained the application was required due to a name change from the Treehouse Café to THC Café, Inc. for business purposes.

Chair Powell requested public comment and receiving none, adjourned the Public Hearing and reconvened the Regular Meeting at 1:07:35 PM.

Motion: Approve Application No. 000/921155, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

20. Manager's Report (continued)

2. **County Request for Investigation for Actions of Cibola National Forest:** The Manager reminded after submitting a formal Request for Investigation into actions by Karen Lessard of the Cibola National Forest, Mountainair Ranger District to ban or modify grazing privileges of long-term permittees; the Commission received a less than satisfactory response from Cal Joyner, SW Regional Office of the USDA Forest Service. The Manager provided a copy of Attorney Morel's letter notifying Mr. Joyner of the Commission's dissatisfaction with the lack of responsiveness and again requesting all the information that the Cibola District utilized in making its decisions. Attorney Morel informed as of this date he had received no reply to his letter.
3. **El Capitan Mine Update:** The Manager informed Blair Dunne, Attorney for El Capitan Mine and Chris Eustice, NM Senior Environmental Engineer would attend the November 18, 2014 Regular Commission meeting to provide an update. The Manager provided copy of an email from Chris Eustice to Attorney Morel which included the June proposed permit modification application for Capitan Iron Mine. The Manager stated further

information relating to the matter was posted on the State's Energy, Minerals and Natural Resource Department website.

4. **Carrizozo Senior Center:** The Notice of Invitation for Proposal would appear in the Ruidoso News on October 24, 2014 and in the Albuquerque Journal on October 26, 2014. The Manager stated a Pre-proposal Conference was set for November 10, 2014 with bids due on November 19, 2014.
5. **Mandatory Benefit Change:** The State General Services Department notified all Local Public Bodies of some administrative process changes and of one benefit change. As of October 27, 2014, the employer is responsible for 100% of Basic Life premiums with no cost sharing by employees. The Manager stated currently the County paid 80% of this benefit and anticipated a minimal impact to the County budget.
6. **New Mexico Association of Counties:** NMAC scheduled the "Better Informed Public Officials" (BIPO) Conference for December 9 -11 in Santa Fe. The conference for newly elected Commissioners and Public Officials was scheduled to coincide with NM EDGE classes.
7. **Abandoned Well Ordinance.** NMAC requested all counties consider adopting an "Abandoned Well Ordinance." The initiative from the State Engineer's office was based on the need for proper closure of abandoned wells and was prompted by a fatal accident involving a child who fell into a well that was not properly capped. The Manager provided a copy of House Memorial 33 which tasks the Office of the State Engineer, the New Mexico Municipal League and NMAC to work together on the issue.

There was a general consensus to refer consideration of an Abandoned Well Ordinance to the Planning Commission.

Chair Powell reported on a discussion at the recent NMAC Board of Directors meeting about a potential audit requirement to report PERA deficits by County. Chair Powell questioned if this requirement might affect the County's bonding capacity. The Manager stated she would research the matter.

8. Departmental Updates:

- a) Punkin Schlarb, Finance Director reported the Finance Department completed the FY 2013-2014 audit process excepting a final review by the auditor of the Assets and Inventory balance.
- b) Carl Palmer, Road Superintendent informed on recent meetings with FEMA staff. Mr. Palmer stated Lincoln County was approved for FEMA funding for flood damage sustained in July and September of this 2014.

Commissioner Draper questioned Mr. Palmer about water runoff damage to the Angus Cemetery. Mr. Palmer expressed belief the erosion was related to the reconstruction of Highway 48. Mr. Palmer suggested the problem would require a design engineer to resolve the redirection of flow.

- c) Curt Temple, Planning Director provided an update on the final meeting of the Joint Land Use Study Committee. Mr. Temple suggested Commissioners review the final plan for information regarding the economic impact of military bases in the area. Mr. Temple stated plans to present a Resolution for the Implementation of the JLUS proposals at the next Regular Meeting. Mr. Temple stated the Implementation phase would require an additional County match. Mr. Temple stated the plan was currently in circulation for approval by various agencies.

Mr. Temple reported Rural Addressing had removed all County road signs with alphanumeric names such as E022. Mr. Temple also reported on several complaints received by his department regarding the Greentree Solid Waste Authority billing.

- d) Joe Kenmore, Director of the Office of Emergency Services discussed the cooperative effort with the Road Superintendent to identify damage from rain incidents eligible for FEMA funding.

Mr. Kenmore commented on the potential for a positive improvement in ISO ratings after recent inspections by the State Fire Marshall at Fort Stanton and Lincoln. Mr. Kenmore discussed recent trainings held at the Copper Ridge Station and in Hondo

including annual requirements for pump and hose testing. Mr. Kenmore commented on the professionalism and dedication of the volunteer fire fighters in Lincoln County.

- e) Billie Jo Guevara, Administrative Assistant and Human Resource Director reminded of the "Open Switch Enrollment" period for employee health insurance.

13. Consideration/Action on Early Payoff of Retiree Health Care Insurance in Arrears

Ms. Taylor expressed appreciation for Rachel Monrreal's suggestion to review the payoff of the note for Retiree Health Care. Ms. Taylor stated in 2006 Lincoln County opted to enroll in the New Mexico Retiree Health Care Authority to provide health coverage for County retirees. Ms. Taylor stated as the program commenced in 1990, the County was obligated to provide funds to bring Lincoln County current with the contributions of those entities enrolled at that time. Ms. Taylor reported the cost of those contributions with interest was \$250,529.09 with a payoff date of January 1, 2018.

Ms. Taylor stated the interest rate for this transaction was 7.5% and to date the County had paid \$113,456 in interest amounting to approximately 50% of the original loan value. Ms. Taylor recommended the County pay the current loan balance of approximately \$92,000 to save an additional \$12,831.54 in interest.

Motion: Approve the early payoff of Retiree Health Care note, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

16. Consideration of Approval/Disapproval Recommendation of Indigent Health Care Claims

Scott Annala, IHC Administrator presented the Sole Community Provider/Safety Net Care Provider Pool claims for approval. Mr. Annala processed 26 claims with 24 recommended for approval and 2 recommended for disapproval for a monthly authorization of \$28,968. Mr. Annala stated the total approval for SCP/SNCP claims for Fiscal Year 2014-2015 to date was \$102,188 with a monthly average of \$25,547.

Mr. Annala presented the Indigent Health Care Payments request for the month and stated he processed 17 claims with 12 claims recommended for approval and 5 for disapproval for a total payment this month of \$2,875.07. Mr. Annala stated, pending approval, the total for IHC claims for Fiscal Year 2014-2015 to date was \$24,023.09 for an average monthly indigent claims payment of \$6,009.

Motion: Approval and denial of the claims as indicated for SCP/SNCP and Indigent Health Care as recommended, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

Mr. Annala reported on a recent conference call meeting of the Health Policy Committee. Mr. Annala stated there was a consensus to revive the Health Care Affiliate Resolution to reinstate the sunset clause of Senate Bill 268 with an extension of one year to coincide with the State's Medicaid waiver expiration as a NMAC priority. Mr. Annala informed he would testify before the Legislative Finance Committee regarding a reported \$30 million "surplus" held by the counties in Indigent Funds.

SEE EXHIBIT C: Copies of the Sole Community Provider and Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

17. Water Issues/Forest/Wildlife Health Programs/Land and Natural Resources Advisory Committee (LANRAC)

Water Rights Notice: Application by the Town of Carrizozo for permit for a Supplemental Well within the Tularosa Underground Water Basin in Lincoln County to use previously drilled well T-4619 for the continued diversion of up to 706 acre feet per annum of shallow underground water in partial, continued exercise of existing water rights owned by applicant and supplemental to existing Town of Carrizozo wells T-247 et al for municipal, commercial and recreational purposes within the Town of Carrizozo service area.

Water Rights Transfer Protests: Ms. Taylor informed the Village of Ruidoso filed a Motion to Dismiss all protests based on the belief the Village did not receive proper notice of the protests. Ms. Taylor stated Attorney George Chandler filed an Entry of Appearance on behalf of twenty three Lincoln County residents filing protests. Ms. Taylor reminded Kelly Cassels, Attorney with the Roswell law firm of Sanders, Bruin, Coll and Worley was engaged to represent the County of Lincoln in the matter of protests filed opposing water rights transfers by the Village of Ruidoso.

Lincoln County and Its Long Term Commitment to Forest/Watershed Restoration: Ms. Taylor reminded during a prior presentation Dr. Brent Racher made a commitment to set up workshops to develop a specific proposal for presentation to stakeholders to achieve forested watershed restoration at an accelerated pace. Ms. Taylor stated Dr. Racher had tentatively set up an initial workshop date in mid-November with a broad range of potential stakeholders.

a. Resolution 2014-24 Opposition to Proposed "Waters of the US" Rule

Ms. Taylor provided a copy of the comments submitted by Lincoln County in 2013. Ms. Taylor stated on April 21, 2014 the US Environmental Protection Agency and the US Army Corps of Engineers released a new proposed rule to expand the range of waters falling under federal jurisdiction. Ms. Taylor presented the Resolution to voice the Commission's opposition to the definition change.

Motion: Adopt Resolution 2014-24, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Commissioner Minter suggested resending the letter dated September 2013 along with the Resolution. Commissioner Doth suggested contacting legislators to recommend "defunding" the EPA.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

SEE EXHIBIT D: Copy of Resolution 2014-24 is attached hereto in reference thereto made a part hereof.

18. Consideration/Approval of Amending Resolution 2013-07 NMDOT Cooperative Road Programs by Resolution 2014-22

Ms. Taylor informed the original CAP/COOP road projects identified for funding were completed at a cost less than anticipated and presented additional projects which met the requirements for State funding contributions. Ms. Taylor clarified the identification of additional projects would result in no impact to the budget as the County contribution was unchanged.

Motion: Adopt Resolution 2014-22, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

SEE EXHIBIT E: Copy of Resolution 2014-22 is attached hereto in reference thereto made a part hereof.

19. Consideration and Approval to Dispose of County Property by Auction – Resolution 2014-21

Ms. Taylor presented the Resolution for approval to auction County owned assets as listed in the Resolution.

Motion: Adopt Resolution 2014-21, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

Commissioner Draper, Commissioner Doth, and Paul Baca, Assessor volunteered to review the items prior to sale.

SEE EXHIBIT F: Copy of Resolution 2014-21 is attached hereto in reference thereto made a part hereof.

22. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances

A. Lincoln County Ordinance No. 2008-07 – An Ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County, Providing for the Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of the Ordinance; and Repealing Ordinance 2008-06.

Motion: Schedule a Public Hearing to revise Lincoln County Ordinance 2008-07, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

23. Consideration/Action on Bid 14-15-003 Janitorial Services Lincoln County Complex

Ms. Taylor detailed the five bids received for Janitorial Services as listed below:

| | | |
|----|--------------------------|---------------|
| 1. | R and B Cleaning | \$3,042/month |
| 2. | Linda Zamora | \$4,333/month |
| 3. | Martha Guevara | \$4,500/month |
| 4. | F P Services | \$5,500/month |
| 5. | Patty's Cleaning Service | \$7,000/month |

Motion: Award Bid 14-15-003 for Janitorial Services to R and B Cleaning and authorize the Manager to enter into contract negotiations, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

24. Consideration of Appointments and Removals from Boards/Commissions/Committees:

a. Land and Natural Resources Advisory Committee

Motion: Reappoint Mary Ann Siegel-Russ to LANRAC, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

b. Road Review Advisory Committee

Motion: Reappoint Robert Barber to the Road Review Advisory Committee, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

c. Tabled-Senior Citizens Olympic Committee

25. Consideration/Action on Renewal of Manager's Contract: Terminates November 7, 2014

Attorney Morel presented the contract and reminded Ms. Taylor was hired in 2011 at a salary at \$80,000 with a subsequent increase to \$85,000 after six months. Attorney Morel reminded Ms. Taylor's contract was renewed in 2012 with an increase in salary to \$90,000.

Attorney Morel stated the County Manager made no specific request for increase in salary. Attorney Morel recommended an increase to \$100,000 annually based on the Manager's exemplary performance.

Chair Powell along with the other County Commissioners commended Ms. Taylor for her performance and service to the County of Lincoln. Chair Powell suggested an increase of \$7,500.

Motion: Approve the renewal of the Manager's contract with an annual salary of \$97,500,

Action: Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Stone.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

28. Signing of Official Documents

29. Next meetings:

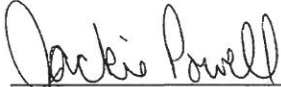
November 7, 2014 – Special Commission Meeting Canvass General Election Votes
November 18, 2014 - Regular Commission Meeting

Ms. Taylor requested a change of the Regular Commission Meeting to coincide with a bid opening. There was a general consensus to change the Regular Meeting to November 19, 2014.

30. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 2:26:49 PM.

County of Lincoln
Board of County Commissioners

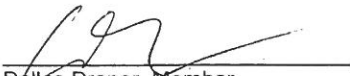


Jackie Powell, Chair

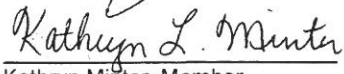


Preston Stone, Vice Chair

Mark Doth, Member



Dallas Draper, Member



Kathryn Minter, Member

ATTEST:


Rhonda B. Burrows, County Clerk

November 19, 2014
Date Approved

